

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX**

IN THE MATTER OF:
Stringfellow Superfund Site
Jurupa Valley, California

Stone Valley Materials,
Chris Van Veldhuizen, President,
Stone Valley Materials LLC

Respondents

ADMINISTRATIVE ORDER DIRECTING
COMPLIANCE WITH REQUEST FOR
ACCESS

U.S. EPA Region IX
CERCLA Docket No. 09-2014-001

Proceeding Under Section 104(e) of the
Comprehensive Environmental Response,
Compensation, and Liability Act, as
amended, 42 U.S.C. § 9604(e)

I. JURISDICTION

1. This Administrative Order ("Order") is issued pursuant to the authority vested in the President of the United States by Section 104(e)(5) of the Comprehensive Environmental Response, Compensation, and Liability Act, ("CERCLA"), 42 U.S.C. § 9604(e)(5), and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. § 300.400(d)(4), to the following (collectively, the "Respondents"): Stone Valley Materials ("SVM"), a California corporation; Stone Valley Materials LLC, a California limited liability company; and Chris Van Veldhuizen, an individual and president of SVM. This authority was delegated to the Administrator of the United States Environmental Protection Agency ("EPA") on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923, redelegated to the Regional Administrators of EPA on May 11, 1994, by EPA Delegation No. 14-6, and further delegated to the Director of the EPA Region IX Superfund Division by Regional Delegation R9-14-6, dated February 11,

2013.

II. STATEMENT OF PURPOSE

2. This Order requires Respondents to grant EPA and its authorized representatives entry and access to the property described below located in Riverside County, California, for the purpose of determining the need for response or choosing a response action (including mitigation of contaminants or restricting access), more specifically implementing the provisions of CERCLA by conducting necessary Remedial Investigation/Feasibility Study ("RI/FS") in furtherance of response activities within the Stringfellow Superfund Site, in Jurupa Valley, California (the "Site"), as listed on the National Priorities List, 40 C.F.R. Part 300 Appx. B, pursuant to Section 105(a)(8)(B) of CERCLA, 42 U.S.C. § 9605(a)(8)(B). This Order further requires Respondents to refrain from interfering with access to the Property by EPA and its authorized representatives for the purposes set forth herein.

III. FINDINGS OF FACT

3. Respondents operate or control property in Riverside County, California, within or adjacent to the Site. Specifically, Respondents operate or control property within the bounds of the parcels known as Riverside County Assessors' Parcel Numbers 173-170-016, 173-180-003 and 173-180-016 (collectively, the "Property"), and as further indicated in the Site map included as Attachment A and incorporated herein by reference.

4. The Property has been operated as a quarry since at least the mid-1950s. The Respondents are current operators of the Property. EPA has made initial observations that perchlorate, a contaminant of concern at the Site, has been a component of explosives utilized in quarry operations.

5. a. Testing of soil, groundwater, and surface water on or immediately
CERCLA 09-2014-001

downstream of the Property has documented the presence of perchlorate at levels that may pose a risk to human health or the environment. Testing of soil to the north of the Property also has documented the presence of perchlorate at levels that may pose a risk to human health or the environment. Preliminary results from analysis of soil samples recently collected (September and October 2013) from the Property identified perchlorate at levels up to 750 micrograms per kilogram (ug/kg). Preliminary results from analysis of groundwater samples (September and October 2013) from the Property identified perchlorate at levels up to 620 micrograms per liter (ug/L). EPA's investigation of groundwater contamination at the Property to determine the extent of contamination and subsequent response decisions has not been completed.

b. Results from testing of surface water at locations believed to be representative of runoff from the Property identified perchlorate at levels up to 7.5 ug/L. Perchlorate measurements in surface water at five locations on or immediately downstream of the Property identified perchlorate at levels of 6.0, 7.5, 3.5, 5.6, and 6.0 ug/L. Preliminary results from analysis of samples collected by EPA to the north of the Property in September and October 2013 found perchlorate at levels up to 7,500 ug/kg. EPA's investigation of contamination to the north of the Property to determine the extent of contamination and subsequent response decisions has not been completed. Access to the areas north of the Property from routes other than the Property is limited due to an absence of other improved roads, the presence of threatened or endangered species, and local infrastructure.

6. To adequately address the release or threatened release of hazardous substances or pollutants or contaminants at and adjacent to the Site, EPA intends to conduct certain response activities. These actions include performing additional remedial investigation into sources of such releases.

7. To perform the remedial investigation activities, it will be necessary for employees, agents, contractors, and other representatives of EPA to enter the Property. The activities for which entry is required for the continued remedial investigation include: staging of a field trailer, storage containers, and other equipment and supplies; installation of approximately four groundwater monitoring wells in locations tentatively identified in Attachment A as EPA-MW3 (one well planned) and EPA-MW11 (three wells planned); collection of surface water samples within the Property; temporary placement of waste storage tanks for containment of drilling fluids and soils at the monitoring well locations; measurement of groundwater water levels, collection of groundwater samples, and related field measurements; surveying of groundwater monitoring well and sample collection locations; and, access along the western perimeter road leading to and through the Riverside County access gate (as marked on Attachment A).

8. EPA estimates that the duration of the required entry and access to conduct RI/FS and removal activities will be approximately through August 2014.

9. Despite requests from representatives of EPA, Respondents SVM and Mr. Van Veldhuizen have refused to provide access for purposes of performing the response activities described above. The requests to Respondents have included telephone and electronic mail requests from EPA's response contractor to SVM, and telephone requests and electronic mail requests from EPA's legal counsel to Respondents.

10. EPA, its contractors and other representatives are ready to conduct response actions on the Property immediately to continue remedial investigations at the Site, but are prevented from doing so because Respondents have withheld a grant of access. Further delay in continuing the remedial investigations will delay the selection of any remedy and threaten to

CERCLA 09-2014-001

further expose the public and the environment to perchlorate and other Site contaminants.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

11. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

12. Respondents are each a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

13. All of the substances listed in Paragraphs 5 and 6 above are hazardous substances or pollutants or contaminants within the meaning of Sections 101(14) and 101(23) of CERCLA, 42 U.S.C. §§ 9601(14), 9601(23).

14. The past disposal and migration of hazardous substances or pollutants or contaminants at or from the Site constitutes an actual "release" or a threat of such a release into the "environment" within the meaning of Sections 101(8) and 101(22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22), and there is a reasonable basis for EPA to believe that there may be a release or threat of release at the Property and the Site within the meaning of Section 104(e)(1) of CERCLA, 42 U.S.C. § 104(e)(1).

15. The Property, operated or controlled by Respondents, is or is adjacent to, a facility, establishment, or other place or property:

- a. where hazardous substances or pollutants and contaminants have been generated, stored, treated, disposed of, or transported from;
- b. from or to which hazardous substances or pollutants and contaminants have been or may have been released;
- c. where such release is or may be threatened; and
- d. where entry is needed to determine the need for response, to identify the

appropriate response, or to effectuate a response action within the meaning of Section 104(e)(3) of CERCLA, 42 U.S.C. § 9604(e)(3).

16. Entry to the Property by the agents, contractors, or other representatives of the United States is needed for the purposes of determining the need for response, choosing a response action, taking a response action (including mitigation of contaminants or restricting access), or otherwise implementing the provisions of CERCLA, within the meaning of Section 104(e)(1) of CERCLA, 42 U.S.C. § 9604(e)(1).

17. EPA's request for access to the Property has not been granted.

V. ORDER

18. Based upon the foregoing Findings of Fact, Conclusions of Law and Determinations, and the Administrative Record, Respondents are hereby ordered to provide EPA and its officers, employees, agents, contractors, and other representatives, full and unrestricted access at all reasonable times to the Property for the purpose of conducting response activities, including but not limited to investigation appropriate to determine the need for further response, choosing a response action, taking a response action (including mitigation of contaminants or restricting access), or otherwise implementing the provisions of CERCLA by conducting necessary response actions and an RI/FS at the Site.

19. Respondents shall not interfere with EPA's exercise of its access authorities pursuant to 42 U.S.C. § 9604(e) and 40 C.F.R. § 300.400(d), and shall not interfere with or otherwise limit any activity conducted at the Property pursuant to this Order by EPA, its officers, employees, agents, contractors, or other representatives. Any such interference shall be deemed a violation of this Order.

20. Nothing herein limits or otherwise affects any right of entry held by the United
CERCLA 09-2014-001

States pursuant to applicable laws, regulations, or permits.

21. This Order shall apply to and be binding on Respondents and their successors, heirs and assigns, and each and every agent of Respondents and on all other persons and entities under the direct or indirect control of Respondents, including any and all lessees of Respondents.

22. In the event of any conveyance by Respondents, or Respondents' agents, heirs, successors and assigns, of an interest in the Property, Respondents or Respondents' agents, heirs, successors and assigns shall convey the interest in a manner that insures continued access to the Property by EPA and its representatives for the purpose of carrying out the activities pursuant to this Order. Any such conveyance shall restrict the use of the Property so that the use will not interfere with activities undertaken or to be undertaken by EPA and its representatives.

Respondents, or Respondents' agents, heirs, successors and assigns shall notify EPA in writing at least thirty (30) days prior to the conveyance of any interest in the Property, and shall, prior to the transfer, notify the other parties involved in the conveyance of the provisions of this Order.

VI. ENFORCEMENT

23. Compliance with this Order shall be enforceable pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5). A court may impose a civil penalty on Respondents of up to \$37,500 for each day that Respondents unreasonably fail to comply with this Order, as provided in Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5), and the Civil Monetary Penalty Inflation Adjustment Rule, 69 Fed. Reg. 7121, 40 C.F.R. Part 19.4. In addition, any person who is liable for a release or threat of release of a hazardous substance or pollutant or contaminant and who fails to comply with this Order may be liable for punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such failure, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Nothing

CERCLA 09-2014-001

herein shall preclude EPA from taking any additional enforcement actions or other actions that EPA may deem necessary for any purpose, including the prevention or abatement of a threat to the public health, welfare, or the environment arising from conditions at the Site, and recovery of the costs thereof.

24. Nothing in this Order constitutes a waiver, bar, release, or satisfaction of or a defense to any cause of action that EPA has now or may have in the future against Respondents or against any entity that is not a party to this Order.

25. Nothing in this Order shall affect in any manner the right of EPA to issue any other orders to or take any other administrative or civil action against Respondents or any other parties under CERCLA that relate to this Site or any other site.

26. Nothing in this Order constitutes a decision on preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

VII. ADMINISTRATIVE RECORD

27. EPA has established an Administrative Record that contains the documents that form the basis for the issuance of this Order. It is available for review by appointment on weekdays between the hours of 8 a.m. and 5 p.m. at the EPA Superfund Records Center at 95 Hawthorne Street, Suite 403S, in San Francisco, California. To review the Administrative Record, please contact the EPA Superfund Records Center at (415) 820-4700 to make an appointment.

VIII. OPPORTUNITY TO CONFER

28. Within three (3) business days after receipt of this Order by Respondents, Respondents may request a conference with EPA, to be held no later than five (5) business days
CERCLA 09-2014-001

after any Respondents' request, on any matter pertinent to this Order, including its applicability, the factual findings and the determinations on which it is based, the appropriateness of any actions Respondents are ordered to take, or any other relevant and material issues or contentions that Respondents may have regarding this Order. Respondents may appear in person or by an attorney or other representative at the conference. Respondents also may submit written comments or statements of position on any matter pertinent to this Order no later than the time of the conference, or at least two business days before the Effective Date of this Order if Respondents do not request a conference. EPA will deem Respondents to have waived any right to the conference or to submit written comments if Respondents fail to request the conference or submit comments within the specified time period(s). Any request for a conference or written comments or statements should be submitted to:

J. Andrew Helmlinger
Office of Regional Counsel
United States Environmental Protection Agency, Region IX
75 Hawthorne Street (ORC-3)
San Francisco, California 94105
Telephone: (415) 972-3904

IX. EFFECTIVE DATE; COMPUTATION OF TIME

29. Because of the immediate need to initiate the activities described above, this Order shall be effective seven (7) business days after its receipt by Respondents or Respondents' designated representative (the "Effective Date") unless a conference is timely requested as provided above. If a conference is timely requested, then at the conclusion of the conference or after the conference, if EPA determines that no modification to the Order is necessary, the Order shall become effective immediately on notification by EPA of such determination. If modification of the Order is determined by EPA to be necessary, the Order shall become

effective on notification by EPA of such modification. Any EPA notification under this paragraph may, at EPA's discretion, be provided to Respondents by facsimile, electronic mail, or oral communication; provided that, if EPA does use such a form of notification, it will also confirm such notification by first class, certified or express mail to Respondents or their legal counsel. Any amendment or modification of this Order by EPA shall be made or confirmed in writing.

30. For purposes of this Order, the term "day" shall mean a calendar day unless expressly stated to be a business day. "Business day" shall mean a day other than a Saturday, Sunday, or a federal legal holiday. When computing any period of time under this Order, if the last day would fall on a Saturday, Sunday, or a federal legal holiday, the period shall run until the next business day.

X. NOTICE OF INTENT TO COMPLY

31. On or before the Effective Date of this Order, Respondents shall notify EPA in writing whether Respondents will comply with the terms of this Order. Respondents' failure to notify EPA of their unconditional intent to fully comply with this Order by the time the Order becomes effective shall be: 1) construed as a denial of EPA's request for access; and 2) as of the Effective Date of the Order, treated as a violation of the Order. Such written notice shall be sent to:

J. Andrew Helmlinger
Office of Regional Counsel
United States Environmental Protection Agency, Region IX
75 Hawthorne Street (ORC-3)
San Francisco, California 94105

XI. TERMINATION

32. This Order shall remain in effect until the Superfund Division Section Chief or
CERCLA 09-2014-001

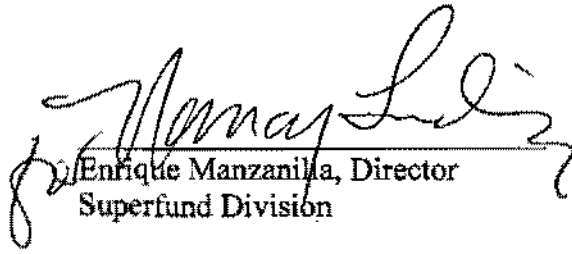
delegate notifies Respondents in writing that access to the Property is no longer needed.

SO ORDERED.

CERCLA 09-2014-001

Date:

1/9/14


Enrique Manzanilla, Director
Superfund Division

CERCLA 09-2014-001



- Western Access Road Gate
- Proposed Monitoring Well Cluster
- Approximate EPA Well Location (newly installed)
- Existing DTSC Wells
- Western Access Road

- Riverside Mining Parcels
- Parcel Boundaries

Attachment A
Attachment to an Administrative
Order Directing Compliance
with Request for Access,
U.S. EPA Region IX,
CERCLA Docket No. 09-2014-01

